

# SENATE BILL No. 575

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 20-28; IC 20-29; IC 20-40-16-2.

**Synopsis:** Teacher collective bargaining. Extends the use of temporary teacher contracts to hiring for positions funded by grants. Provides that the statutory procedures for refusing to continue or canceling a teacher contract may not be modified by a collective bargaining agreement (agreement). Allows a teacher who has been suspended from duty pending the cancellation of a contract to be suspended without pay. Limits the number of teachers the exclusive representative may appoint to serve on statutory or locally created committees of a school corporation. Provides that an agreement may not include provisions that limit a school employer's ability to restructure schools that do not meet federal or state accountability standards, or that limit a school employer's ability to enter into programs that offer postsecondary credit or dual credits to students. Provides that an agreement may not extend beyond the end of a state budget biennium. Prohibits certain subjects from being bargained collectively, and provides that prohibited subjects and items that lead to deficit financing may not be included in an agreement. Removes certain items from the list of discussion subjects between a school employer and an exclusive representative. Provides that collective bargaining begins not later than May 1, and makes corresponding changes to related sections. Provides that a school employer may end a status quo period. Provides that if a complaint that is filed alleging an unfair practice concerning a subject of discussion is found to be frivolous, the complaining party is liable for costs and attorney's fees. Repeals provisions concerning minimum salary and salary increments for teachers, the definition of "submission date", and a provision allowing the statutory procedures for refusing to continue or canceling a teacher contract to be modified by an agreement, and makes conforming changes to related sections.

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**Effective:** July 1, 2011.

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**Boots, Kenley, Charbonneau**

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January 20, 2011, read first time and referred to Committee on Pensions and Labor.

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First Regular Session 117th General Assembly (2011)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2010 Regular Session of the General Assembly.

## SENATE BILL No. 575

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A BILL FOR AN ACT to amend the Indiana Code concerning education.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 20-28-6-2, AS ADDED BY P.L.1-2005, SECTION  
2       12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
3       2011]: Sec. 2. (a) A contract entered into by a teacher and a school  
4       corporation must:

5               (1) be in writing;

6               (2) be signed by both parties; and

7               (3) contain the:

8                       (A) beginning date of the school term as determined annually  
9                       by the school corporation;

10                      (B) number of days in the school term as determined annually  
11                      by the school corporation;

12                      (C) total salary to be paid to the teacher during the school year;  
13                      and

14                      (D) number of salary payments to be made to the teacher  
15                      during the school year.

16       (b) The contract may provide for the annual determination of the  
17       teacher's annual compensation by a local salary schedule, which is part



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of the contract. The salary schedule may be changed by the school corporation on or before May 1 of a year, with the changes effective the next school year. A teacher affected by the changes shall be furnished with printed copies of the changed schedule not later than thirty (30) days after the schedule's adoption.

(c) A contract under this section is also governed by the following statutes:

(1) ~~IC 20-28-9-1~~ **IC 20-28-9-5** through IC 20-28-9-6.

(2) IC 20-28-9-9 through IC 20-28-9-11.

(3) IC 20-28-9-13.

(4) IC 20-28-9-14.

(d) A governing body shall provide the blank contract forms, carefully worded by the state superintendent, and have them signed. The contracts are public records open to inspection by the residents of each school corporation.

(e) An action may be brought on a contract that conforms with subsections (a)(1), (a)(2), and (d).

SECTION 2. IC 20-28-6-6, AS ADDED BY P.L.1-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6. (a) A temporary teacher's contract shall be used only for employing:

(1) a teacher to serve in the absence of a teacher who has been granted a leave of absence by the school corporation for:

(1) ~~(A)~~ **(A)** engaging in defense service or in service auxiliary to defense service;

(2) ~~(B)~~ **(B)** professional study or advancement;

(3) ~~(C)~~ **(C)** exchange teaching;

(4) ~~(D)~~ **(D)** extended disability to which a licensed physician has attested; or

(5) ~~(E)~~ **(E)** serving in the general assembly; or

(2) **a new teacher for a position:**

**(A) that is funded by a grant for which funding is available only for a specified period; or**

**(B) vacated by a teacher who is under a regular contract and who temporarily accepts a teacher position that is funded by a grant for which funding is available only for a specified period.**

(b) The temporary teacher's contract must contain:

(1) the provisions of the regular teacher's contract except those providing for continued tenure of position;

(2) a blank space for the name of the teacher granted the leave, which may not be used on another temporary teacher's contract

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for the same leave of absence; and

(3) an expiration date that:

(A) is the date of the return of the teacher on leave; and

(B) is not later than the end of the school year.

(c) If a teacher is employed on the temporary teacher's contract for at least sixty (60) days in a school year, the teacher may, on request, receive the service credit that the teacher would otherwise receive with regard to the Indiana state teachers' retirement fund. ~~Additionally, the salary of that teacher may not be less than the state minimum salary under IC 20-28-9-1 and IC 20-28-9-2, or by a local salary schedule not less remunerative than the state minimum salary under IC 20-28-9-1 and IC 20-28-9-2.~~

SECTION 3. IC 20-28-7-4, AS ADDED BY P.L.1-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. If a permanent or semipermanent teacher is suspended under section 3(8) of this chapter, and except as provided in IC 20-28-9-18, the governing body may, ~~not~~, while the teacher is suspended, withhold from the teacher any salary payments or other employment related benefits that before the suspension the teacher was entitled to receive.

SECTION 4. IC 20-28-7-8, AS ADDED BY P.L.1-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 8. A contract entered into by a nonpermanent teacher and a school corporation continues in force on the same terms and for the same wages ~~unless increased under IC 20-28-9-1 and IC 20-28-9-2~~, for the next school term following the date of termination set in the contract. However, the contract does not continue if any of the following occur:

(1) The school corporation refuses continuation of the contract under sections 9 and 10(b) of this chapter.

(2) The teacher delivers or mails by registered or certified mail to the school corporation the teacher's written resignation.

(3) The contract is replaced by another contract agreed to by the parties.

SECTION 5. IC 20-28-7-13, AS ADDED BY P.L.1-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 13. ~~(a) This chapter: may not be construed to limit the provisions of a collective bargaining agreement negotiated under IC 20-29-~~

~~(b) This chapter does not prohibit a school employer and an exclusive representative from collectively bargaining contracts that alter the requirements of sections 1 through 6 and sections 8 through~~

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12 of this chapter and IC 20-28-9-21 through IC 20-28-9-23.

(c) This chapter may not be construed to limit the rights of a school employer and an exclusive representative (as defined in IC 20-29-2-9) to mutually agree to binding arbitration concerning teacher dismissals.

(d) If the school employer and the exclusive representative mutually agree to binding arbitration of teacher dismissals:

(1) the arbitrator shall determine whether the hearing will be open to the public; and

(2) the written decision of the arbitrator must be:

(A) presented to the governing body in an open meeting; and

(B) made available to the public for inspection and copying.

(1) constitutes the uniform system for school corporations for:

(A) the refusal to continue a contract for a nonpermanent teacher; and

(B) the cancellation of a contract for a semipermanent or permanent teacher; and

(2) prohibits a provision in an agreement entered into under IC 20-29 after June 30, 2011, that modifies the procedure or standards for contract cancellation established under this chapter.

SECTION 6. IC 20-28-9-22, AS ADDED BY P.L.1-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 22. **In addition to a suspension without pay under IC 20-28-7-4**, a teacher may be suspended without pay ~~only~~ under the following procedure:

(1) The teacher must be notified in writing not more than forty (40) days and not less than thirty (30) days before the date of the consideration of the date, time, and place for the consideration by the school corporation of the suspension of the teacher without pay.

(2) The teacher shall be furnished, not later than five (5) days after a written request, a written statement of the reasons for the consideration.

(3) The teacher may file a written request for a hearing not later than fifteen (15) days after receipt of the notice of this consideration.

(4) If a request for a hearing is filed, the teacher must be given a hearing before the governing body on a day not earlier than five (5) days after filing the request.

(5) The teacher must be given at least five (5) days notice of the date, time, and place of the hearing.

(6) At the hearing, the teacher is entitled:

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(A) to a full statement of the reasons for the proposed suspension without pay; and

(B) to be heard and to present the testimony of witnesses and other evidence bearing on the reasons for the proposed suspension without pay.

(7) A teacher may not be suspended without pay until:

(A) the date is set for consideration of the suspension without pay;

(B) after a hearing is held, if a hearing is requested by the teacher; and

(C) except on the suspension of a superintendent's contract, the superintendent has given recommendations on the suspension not later than five (5) days after the school corporation makes the request for recommendations.

(8) After complying with this section, the governing body of the school corporation may suspend a teacher without pay for a reasonable time by a majority vote evidenced by a signed statement in the minutes of the board.

The vote to suspend a teacher without pay described in subdivision (8) must be taken by the governing body on the date and at the time and place specified in subdivision (1).

SECTION 7. IC 20-29-5-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 7. (a) This section does not apply to the bargaining team for the exclusive representative.**

**(b) The percentage of teacher positions the exclusive representative may appoint to serve on a statutory or locally created committee may not exceed the percentage of teachers in the school corporation who are members of the exclusive representative. If multiplying the number of teacher positions on the committee by the percentage of teachers in the school corporation who are members of the exclusive representative does not produce a whole number, the product must be rounded up to the nearest whole number. The percentage of positions applies to the number of teacher positions on a committee and not to the total number of positions on a committee.**

**(c) A committee to which this section applies:**

**(1) may not address subjects of bargaining; and**

**(2) may address subjects of discussion;**

**under this article. A school employer's appointment of a teacher to a committee is not a violation of the school employer's or the exclusive representative's duty to discuss under this article, and is**

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1 **not an unfair practice.**

2 SECTION 8. IC 20-29-6-2, AS ADDED BY P.L.1-2005, SECTION  
3 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
4 2011]: Sec. 2. **(a)** A contract entered into under this chapter may not  
5 include provisions that conflict with:

- 6 (1) any right or benefit established by federal or state law;
- 7 (2) school employee rights set forth in IC 20-29-4-1 and
- 8 IC 20-29-4-2; ~~or~~
- 9 (3) school employer rights set forth in IC 20-29-4-3;
- 10 **(4) restructuring options available to a school employer under**
- 11 **federal or state statutes, regulations, or rules because of the**
- 12 **failure of the school corporation or a school to meet federal or**
- 13 **state accountability standards;**
- 14 **(5) a school employer's ability to contract, partner, or operate**
- 15 **jointly with an educational entity that provides postsecondary**
- 16 **credits to students of the school employer or dual credits from**
- 17 **the school employer and the educational entity; or**
- 18 **(6) section 4.5(a) of this chapter.**

19 **(b) A contract entered into under this chapter after June 30,**  
20 **2011, may not extend past the end of a state budget biennium.**

21 **(c) A subject that is set forth in section 4.5(a) of this chapter**  
22 **may not be included in a contract entered into under this chapter**  
23 **after June 30, 2011.**

24 SECTION 9. IC 20-29-6-3, AS ADDED BY P.L.1-2005, SECTION  
25 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
26 2011]: Sec. 3. (a) It is unlawful for a school employer to enter into any  
27 agreement that would place the employer in a position of deficit  
28 financing, **including but not limited to a reduction in the employer's**  
29 **revenue or the expenditures of the employer exceeding the**  
30 **employer's general fund revenue.**

31 (b) A contract that provides for deficit financing is void to that  
32 extent, and an individual teacher's contract executed under the contract  
33 is void to that extent.

34 SECTION 10. IC 20-29-6-4.5 IS ADDED TO THE INDIANA  
35 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
36 [EFFECTIVE JULY 1, 2011]: **Sec. 4.5. (a) For a contract entered**  
37 **into after June 30, 2011, a school employer may not bargain**  
38 **collectively with the exclusive representative on the following:**

- 39 (1) **The school calendar, other than on the total number of**
- 40 **days a teacher must work during a regular school year.**
- 41 (2) **Teacher evaluation procedures and criteria.**
- 42 (3) **Teacher dismissal procedures and criteria.**

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(4) Restructuring options available to a school employer under federal or state statutes, regulations, or rules because of the failure of the school corporation or a school to meet federal or state accountability standards.

(5) The ability of a school employer to contract, partner, or operate jointly with an educational entity that provides postsecondary credits to students of the school employer or dual credits from the school employer and the educational entity.

(b) A subject set forth in subsection (a) that may not be bargained collectively may not be included in an agreement entered into under this article.

SECTION 11. IC 20-29-6-7, AS ADDED BY P.L.1-2005, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 7. (a) A school employer shall discuss with the exclusive representative of certificated employees the **following** items: listed in subsection (b):

(b) A school employer may but is not required to bargain collectively, negotiate, or enter into a written contract concerning, be subject to, or enter into impasse procedures on the following matters:

(1) Working conditions, other than those provided in section 4 of this chapter.

(2) (1) Curriculum development and revision.

(3) (2) Textbook selection.

(4) (3) Teaching methods.

(5) (4) Hiring, **evaluation**, promotion, demotion, transfer, assignment, and retention of certificated employees. **and changes to any of the requirements set forth in IC 20-28-6 through IC 20-28-8.**

(6) (5) Student discipline.

(7) (6) Expulsion or supervision of students.

(8) (7) Pupil/teacher ratio.

(9) (8) Class size or budget appropriations.

(c) (b) For an agreement entered into before July 1, 2011, items included in the 1972-1973 agreements between an employer school corporation and the school employee organization continue to be bargainable.

SECTION 12. IC 20-29-6-12, AS ADDED BY P.L.1-2005, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 12. Collective bargaining between a school corporation and the exclusive representative shall begin not later than one hundred eighty (180) days before the submission date of a budget

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by a school employer. **May 1 of the last year of the state budget biennium or, if the collective bargaining agreement expires before the end of the state budget biennium, by May 1 of the year preceding the last year of the state budget biennium.**

SECTION 13. IC 20-29-6-13, AS ADDED BY P.L.1-2005, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 13. At any time after ~~the one hundred eighty (180) days described in section 12 of this chapter has begun;~~ **May 1**, the board shall appoint a mediator if either party declares an impasse either:

(1) in the scope of the items that are to be bargained collectively;

or

(2) on the substance of any item to be bargained collectively.

If after five (5) days the mediator is unsuccessful in finding a solution to the problems or in causing the parties to reach agreement, either party may request the board to initiate factfinding on the items that the parties are obligated to bargain collectively.

SECTION 14. IC 20-29-6-16, AS ADDED BY P.L.1-2005, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 16. (a) If an agreement has not been reached on the items to be bargained collectively ~~fourteen (14) days before the submission date of a budget by a school employer;~~ **the parties shall at the expiration of the then current agreement, the school employer may:**

(1) continue the status quo; and ~~the school employer may~~

(2) issue tentative individual contracts and prepare its budget on that basis.

During this status quo period, in order to allow the successful resolution of the dispute, the school employer may not unilaterally change the terms or conditions of employment that are issues in dispute, **except as provided in subsection (b). A salary increase resulting from a teacher's eligibility for an increment, either from a training salary column or an experience salary step, is not a part of the school employer's status quo obligation and may not be paid to a teacher during the status quo period.**

**(b) A school employer may change the status quo by submitting a thirty (30) day written notice to the school employee organization and the board, stating that:**

(1) the school employer intends to change the status quo and the nature of the change; and

(2) the change in the status quo was previously submitted as a bargaining proposal to the school employee organization.

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(b) (c) This section may not be construed as relieving the school employer or the school employee organization from the duty to bargain collectively until a mutual agreement has been reached and a contract entered as called for in this chapter.

SECTION 15. IC 20-29-6-17, AS ADDED BY P.L.1-2005, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 17. At any time after the one hundred eighty (180) days described in section 12 of this chapter has begun: **May 1:**

(1) either party may request mediation or factfinding on items; or

(2) the parties may act together to request mediation or factfinding on any items;

that must be bargained collectively under section 4 of this chapter.

SECTION 16. IC 20-29-7-1, AS ADDED BY P.L.1-2005, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) It is an unfair practice for a school employer to do any of the following:

(1) Interfere with, restrain, or coerce school employees in the exercise of the rights guaranteed in IC 20-29-4.

(2) Dominate, interfere, or assist in the formation or administration of any school employee organization or contribute financial or other support to the organization. Subject to rules adopted by the governing body, a school employer may permit school employees to confer with the school employer or with any school employee organization during working hours without loss of time or pay.

(3) Encourage or discourage membership in any school employee organization through discrimination in regard to:

(A) hiring;

(B) tenure of employment; or

(C) any term or condition of employment.

(4) Discharge or otherwise discriminate against a school employee because the employee has filed a complaint, affidavit, petition, or any information or testimony under this article.

(5) Refuse to:

(A) bargain collectively; or

(B) discuss;

with an exclusive representative as required by this article.

(6) Fail or refuse to comply with any provision of this article.

**(b) If:**

**(1) a complaint is filed that alleges an unfair practice has occurred with respect to a subject that may be discussed under this article; and**

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1           **(2) the complaint is found to be frivolous;**  
 2           **the party that filed that complaint is liable for costs and attorney's**  
 3           **fees.**

4           SECTION 17. IC 20-40-16-2, AS ADDED BY P.L.109-2010,  
 5           SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 6           JULY 1, 2011]: Sec. 2. As used in this chapter, "wage and salary  
 7           increase" means an increase in wages or salaries payable for the same  
 8           or a similar position after subtracting, for all employees, any of the  
 9           following received by the individual:

10           ~~(1)~~ An increase in wages or salary of an employee from an  
 11           increment under IC 20-28-9-2 bargained for under a written  
 12           contract signed before March 1, 2010, that has not expired.

13           ~~(2)~~ An increase in wages or salary of an employee from an  
 14           increment under IC 20-28-9-2 that does not exceed the increment  
 15           permitted under an increment schedule in effect during the  
 16           previous year under a written contract in effect for the previous  
 17           year or under the status quo provisions in IC 20-29-9-16.  
 18           However, the increment may not exceed two percent (2%) of the  
 19           wages and salary of the employee in the previous year.

20           ~~(3)~~ **(1)** An increase in wages or salary that is paid to an employee  
 21           as a result of the employee completing licensing requirements.

22           ~~(4)~~ **(2)** Health care benefit cost increases for the same or an  
 23           equivalent plan that are shared by the employee and the employer  
 24           in the same proportion as health care benefit costs are shared in  
 25           the previous year.

26           SECTION 18. IC 20-40-16-3, AS ADDED BY P.L.109-2010,  
 27           SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 28           JULY 1, 2011]: Sec. 3. No funds transferred under this chapter may be  
 29           used to increase an increment schedule from an existing increment  
 30           agreement or to increase fringe benefits except those under section ~~2(4)~~  
 31           **2(2)** of this chapter.

32           SECTION 19. THE FOLLOWING ARE REPEALED [EFFECTIVE  
 33           JULY 1, 2011]: IC 20-28-9-1; IC 20-28-9-2; IC 20-28-9-3;  
 34           IC 20-28-9-4; IC 20-29-2-17; IC 20-29-6-11; IC 20-29-6-14;  
 35           IC 20-29-6-15.

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